

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Lands – Sri Potti Sriramulu Nellore District – Revision Petition filed by Sri Avula Mallikarjuna Rao of Gamallapalem village, Gudur Mandal against the Proceedings dated 30.4.2007 of the Joint Collector, Sri Potti Sriramulu Nellore District and to stay the operation of the proceedings - Hearing held on 18.9.2010 – Revision Petition dismissed - Orders - Issued.

REVENUE (ASSN.II) DEPARTMENT

G.O.Ms.No. 1251

Dated:30.9.2010.

Read the following:-

1. Revision Petition of Sri Avula Mallikarjuna Rao of Gamallapalem, Gudur Mandal, Sri Potti Sriramulu Nellore District, dated 16.6.2007.
2. High Court of Andhra Pradesh, Hyderabad Order in W.P.No.4224 of 2008, dated 28.2.2008.
3. Govt. Memo. No.32994/Assn.II (1)/2007 dated 22.4.2008.
4. High Court of Andhra Pradesh, Hyderabad Order in W.P.No..27915 of 2008, dated 5.2.2009.
5. From the District Collector, Sri Potti Sriramulu Nellore, Lr. No.Rc. E8/2120/2008, dated 19.2.2009.
6. Representation of Sri Vayugandla Venkata Sudhakar, Respondent (5), dated 3.6.2009.
7. From the Dy.Registrar, Institution of Andhra Pradesh Lokayukta, Hyderabad Lr.No.Dis.No.317/2008/B1/LOK/2010, dated 8.7.2010.
8. Govt.Memo No.32994/Assn.II (1)/2007, dated 19.8.2010.
9. From the Dy.Registrar, Institution of Andhra Pradesh. Lokayukta, Hyderabad Lr.No.317/2008/B1/LOK/2066/2010, dated 24.8.2010.
10. Written arguments of Counsel for the Respondents (5) & (6), dated 2.12.2009.
11. Written arguments of Sri Avula Mallikarjuna Rao, Revision Petitioner dated Nil submitted on 3-1-2010.

O R D E R:

In the reference 1st read above, one Sri Avula Mallikarjuna Rao of Gudur Village and Mandal, Nellore District has filed Revision Petition under section 4(b)1 of APAL (POT) Act, 1977 against the orders of the Joint Collector, Nellore, dt. 30.4.2007 before the Government to stay the Proceedings of the Joint Collector, issued in D.Dis.No.(E8)3184/2006, dt. 30-4-2007.

- 2) Government have admitted the revision petition and after careful examination of the revision petition decided to give an opportunity to the Appellant by way of hearing and pending disposal of the Revision Petition by the Government stay has been granted on the Proceedings of the Joint Collector, Sri Potti Sriramulu Nellore dated 30.4.2007, in Government Memo. No.32994/Assn.II (1)/2007, dated 22.4.2008. Accordingly, notices were issued to the District Collector, Sri Potti Sriramulu Nellore and he was requested to furnish original record alongwith parawise remarks on the Revision Petition filed. The case was finally heard on 18.9.2010.

(P.T.O.)

3) In the reference 5th read above, the District Collector, Sri Potti Sriramulu Nellore has submitted the connected record together with factual report.

Brief facts of the case are as follows:-

1. That house sites were granted to certain individuals by Revenue Department in Gudur Mandal, in different spells on payment of market value subject to conditions indicated therein.

2. It is noticed that some of the beneficiaries have sold their house sites subsequently to third parties who in turn have exploited the land for commercial activities. A complaint has been filed before the Mandal Revenue Officer Gudur to this effect by the members of Youth Congress, Gudur town alleging that one Sri Vayugandla Venkata Sudhakar, S/o. Sri Ch.Venkata Subbaiah, has encroached upon Government land and proposed to construct shopping complex and hence requested the Mandal Revenue Officer, Gudur to intervene and resume the land from the said encroacher.

3. In pursuance of the above complaint, the Mandal Revenue Officer has issued notices to Sri V. Venkata Sudhakar along with others who were allotted house sites by the Government.

4. When the case was taken up for enquiry by the Joint Collector, Sri Potti Sriramulu Nellore and issued notices to Sri V. Venkata Sudhakar and others, the Revision Petitioner herein has filed W.P. No.19267 of 2006 in the High Court of Andhra Pradesh, Hyderabad, stating that his grandmother bequeathed land admeasuring Ac.0.07 cents comprised in Sy.No.1783/A2-1A situated in I.C.S.Road, Gudur Mandal under registered will dated 28.9.1988. He has stated that Sri. K. Meera Reddy has filed representation before the Joint Collector, Sri Potti Sriramulu Nellore stating that he purchased the said land from Sri V. Venkata Sudhakar & Smt.Subbalakshmi. He has informed the Court that the Joint Collector has issued notices to Sri K.Meera Reddy, Sri.V.V.Sudhakar and Smt.V.Subbalakshmi to appear before the Joint Collector on 16.9.2006. Having come to know of the enquiry he has filed an objection petition before the Joint Collector, but the latter has rejected the same. Hence, the petitioner has requested the Court to intervene and pass suitable orders. The court has disposed off the Writ Petition at admission stage on 25.9.2006 with a direction to the Joint Collector, to consider the objection petition filed by Sri Avula Mallikarjuna Rao and accordingly directed the petitioner to approach the Joint Collector with a copy of the order and to participate in the enquiry.

5. Accordingly, the Revision Petitioner has approached the Joint Collector, to file his representation. The Joint Collector, after examining all the petitions filed before him and upon verification of the records has found that house sites were granted in favour of Sri Pokala Balakrishnaiah, Pokala Parthasaradhi, and Pokala Sujatha, in Sy.Nos 1783, 1784, and 1782 etc., on various dates on payment of market value. As per condition 4 of the allotment certificates, the specified structures or approved structures shall be completed in stipulated time of 12 months laid down in condition No.2. **The land so allotted shall not be alienated without written prior permission of the Revenue Divisional Officer for a period of 10 years from the date of allotment.** In view of this stipulation the Joint Collector has concluded that there was no need to interfere with alienation

(Contd..)

of 4 allottees of Sri Pokala Balakrishnaiah and his relatives. With regard to the contention of Sri A.Mallikarjuna Rao, Revision Petitioner herein, the **Joint Collector has observed that it is a fact that others had sold away the land allotted to him and he can approach the competent forum for redressal and also to file criminal case against the concerned police station having its jurisdiction.** However, if it was an assigned land without collection of market value, the Joint Collector Nellore has directed the Revision Petitioner to approach the Tahsildar, Gudur within two weeks and the Tahsildar, Gudur shall initiate proceedings under Act 9 of 1977 after verification of the records and ascertaining under whose possession the land is.

4) Instead of approaching the Tahsildar, Gudur for redressal he has filed an appeal against the orders passed by the Joint Collector, before the Commissioner of Appeal, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad who in turn has directed him to file Revision Petition before Government as Government is the Revisional Authority under Act 9 of 1977. **Accoridngly he filed this Revision Petition.**

5) The individual has also filed another Writ Petition No. 4224 of 2008 and the Court in its order dated 18.2.2008 has directed the Government to dispose off the Revision Petition filed within a period of 4 weeks from the date of receipt of the order. The Lokayuktha has also directed the Government in the reference 7th & 9th read above to dispose off the Revision Petition filed by Sri. Avula Mallikarjuna Rao as directed by the High Court in Writ Petition No.4224 of 2008.

6) On 18.9.2010, the Revision Petitioner and his Counsel and the Respondents and their counsel and the Tahsildar, Gudur have, attended the hearing.

7) The Counsel for the petitioner has argued that the documents produced by the respondents (5) & (6) viz., Sri Vayugandla Venkata Sudhakar and his wife to the effect that the lands they purchased were originally allotted by the Government as house sites to Sri Pokala Balakrishnaiah and others on payment of market value, are fake and bogus, since the lands have been sold to third parties in violation of the provision of Act 9 of 1977. He has requested the Government to resume the said land from the respondents and also to restore the land allotted to the grand mother of the Revision Petitioner as it was sold without knowledge of the Revision Petitioner.

8) The Counsel for the respondents (5) & (6) has argued that provisions of the Act 9 of 1977 are not applicable to the lands since they were allotted on payment of market value and secondly, the conditions of allotment have not barred the allottees from selling the lands after a period of 10 years. Hence, the respondents having purchased the subject land from the original allottees is valid as per law. He has also argued that the Revision Petitioner kept quiet for more than 26 years without taking possession of the land allotted to his grand mother and now filed Revision Petition before the Government stating that third parties have sold away the land allotted to his grand mother stating that it attracts the provision of POT Act of 9/1977 while it is not so. (Since the house sites were allotted on payment of market value with alienable rights after a period of 10 years from the date of allotment. However, if he is aggrieved by the sale of his land by third party he can very well file a criminal case.

(P.T.O.)

9. The records submitted by Tahsildar, Gudur and the District Collector, Sri Potti Sriramulu Nellore have been verified. It is true that the house sites in Gudur Mandal covered in the Revision Petition were allotted to the beneficiaries by the Government on payment of market value. As such, the issue does not attract the provisions of POT Act 9/1977 as alleged by the Revision Petitioner.

10. This is not a fit case where any intervention of the Government is justifiable at this stage under any law. The case is accordingly closed and the stay granted in Government Memo 3rd read above is hereby vacated.

11. The District Collector, Sri Potti Sriramulu Nellore shall take necessary action, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

- 1) The Collector, Sri Potti Sriramulu Nellore District.
- 2) The Tahsildar, Gudur Mandal, Sri Potti Sriramulu Nellore District.
- 3) Sri Avula Mallikarjuna Rao, S/o.A.V.Krishnaiah,
Agriculturist,R/o.D.No.12/235, Gamallapalem,
Gudur, Nellore District **through** the Tahsildar, Gudur Mandal,
Sri Potti Sriramulu Nellore District.
- 4) Sri Vayugundla Venkata Sudhakar,
S/o.C.V.Subbaiah, R/o.D.No.196, Ward No.9,
Raja Street, Gudur, Gudur Mandal,
Nellore District **through** the Tahsildar, Gudur Mandal.
- 5) Sri Vayugundla Venkata Subbalakshmi,
W/o.V.Venkata Sudhakar,
R/o.D.No.196, Ward No.9, Raja Street, Gudur, Gudur Mandal,
Nellore District **through** the Tahsildar, Gudur Mandal.

Copy to:

- 6) The Special Chief Secretary to Government &
Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.
- 7) Sri.P.V.Saikumar Reddy, Advocate,
8/78, N.R.Pet, Gudur 524 101, Sri Potti Sriramulu Nellore District.
- 8) Sri Ugra Narasimha, Advocate,
Plot No1, Venkatram Nagar Colony, Transport Road, Kharkhana,
Secunderabad – 9.
- 9) The P.S. to the Principal Secretary to Government, Revenue Department.
- 10) Copy to file.

// FORWARDED :: BY ORDER //

SECTION OFFICER